

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

THE CITY OF HUNTINGTON,  
Plaintiff,

v.

CIVIL ACTION NO. 3:17-01362

AMERISOURCEBERGEN  
DRUG CORPORATION, et al.,  
Defendants.

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CABELL COUNTY COMMISSION,  
Plaintiff,

v.

CIVIL ACTION NO. 3:17-01665

AMERISOURCEBERGEN  
DRUG CORPORATION, et al.,  
Defendants.

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**AGREED DISCOVERY RULING**

The undersigned has received Defendants' Motion to Compel (the "Motion," Dkt. 435, 436) the West Virginia State Medical Association ("WVSMA") to produce documents pursuant to a subpoena which Defendant Cardinal Health, Inc. served upon the WVSMA on May 19, 2020 (the "Subpoena"). By agreement of the parties, the Special Master now enters the following discovery ruling.

WVSMA shall produce certain custodial and non-custodial documents responsive to the Subpoena which are in WVSMA's possession, custody, or control. WVSMA may designate documents as "Confidential" pursuant to the Protective Order in this case. Further, Section IX of the Protective Order, regarding inadvertent production of documents, shall apply to the WVSMA's production.

In addition, it is hereby recognized that WVSMA does not intend to produce personal health information (“PHI”) or information subject to privacy requirements under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”). It is therefore ORDERED as follows:

- 1) If any such information is included in WVSMA’s production, the disclosure of that information is deemed inadvertent.
- 2) Any party that determines it has received such information from WVSMA must promptly notify WVSMA, upon which notification WVSMA will produce a redacted copy of the document containing the information and the party or parties that received the document must promptly return or destroy it.
- 3) If WVSMA determines that it has inadvertently produced such information, it must promptly produce a redacted copy of the document containing the information and the party or parties that received the document must promptly return or destroy it.

RESPECTFULLY SUBMITTED,

Dated: July 10<sup>th</sup>, 2020

Christopher C. Wilkes  
Special Master